

STATE OF NEW YORK
SUPREME COURT COUNTY OF ONONDAGA

BEAK & SKIFF APPLE FARMS, INC.,

Index No.

Plaintiff,

v.

VERIFIED COMPLAINT

UNITED STATES BEVERAGE, LLC,

Defendant.

Plaintiff, Beak & Skiff Apple Farms, Inc. (“Plaintiff” or “Beak & Skiff”), by its attorneys, Hancock Estabrook, LLP as and for its Complaint against the Defendant United States Beverage, LLC (“USB” or “Defendant”), alleges as follows:

1. Beak & Skiff is a New York corporation with a principal place of business at 4473 Cherry Valley Turnpike, Lafayette, New York 13084.
2. Beak & Skiff is a family business, established over 100 years ago in Lafayette, New York as an apple orchard.
3. Beak & Skiff has grown tremendously and now, *inter alia*, manufactures and distills its own ciders, wines, and spirits for on-site consumption and shipment across the United States
4. Upon information and belief, USB is an Illinois limited liability company, with a principal place of business at 700 Canal Street, Stamford, Connecticut, 06902.
5. USB is a beverage distributor.
6. USB and Beak and Skiff are sophisticated business parties.

7. In or about 2017, Beak & Skiff and USB entered into a 2017 Sales/Marketing Agreement (the “2017 Agreement”).

8. Subsequently, the Parties entered into the Amended and Restated Sales/Marketing Agreement (“2021 Agreement”) whereunder USB would distribute Beak & Skiff’s cider. A copy of the 2021 Agreement is attached hereto as **Exhibit “A.”**

9. Beak & Skiff sold the product under the 2021 Agreement to USB F.O.B. 2708 Lords Hill Road, Lafayette, New York 13084. [See, Ex. A, §3(c)]

10. The 2021 Agreement was negotiated by and between Beak & Skiff and USB.

11. By late 2023 and early 2024, Beak & Skiff was not seeing appropriate growth in its cider brand with USB.

12. On or about May 28, 2024, Beak & Skiff terminated the 2021 Agreement with USB effective June 1, 2024 *via* personal delivery, FedEx, and regular mail as set forth in the attached letter at **Exhibit “B”** (“May 28, 2024 Letter”) without detailing the Good Cause that existed to do so, opting instead to proceed under Section 17 of the 2021 Agreement.

13. Accordingly, the May 28, 2024 Letter also set forth the “reasonable compensation” formula under Section 17 of the 2021 Agreement and offered to pay USB \$1,071,966.95 (“Reasonable Compensation Offer”).

14. USB has rejected the Reasonable Compensation Offer.

15. Both Parties have stopped performing under the 2021 Agreement.

16. There is a ripe controversy between the Parties as they disagree as to whether USB’s remedy for the termination without cause is monetary damages as calculated under Section 17 of the 2021 Agreement and as reflected in Beak & Skiff’s Reasonable Compensation Offer.

**AS AND FOR A FIRST CAUSE OF ACTION
(Declaratory Judgment)**

17. Plaintiff repeats and realleges each of the foregoing paragraphs as if restated fully herein.

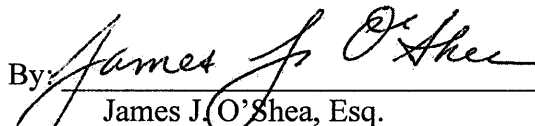
18. Beak & Skiff seeks a declaratory judgment finding that it has terminated the 2021 Agreement, without providing Good Cause, and that both Parties have stopped performing under the 2021 Agreement.

19. Beak & Skiff seeks a declaratory judgment finding that USB's remedy for the termination is monetary damages as calculated under Section 17 of the 2021 Agreement and as reflected in the Reasonable Compensation Offer

WHEREFORE, Plaintiff, Beak & Skiff Apple Farms, Inc., demands a declaratory judgment setting forth that (i) Beak & Skiff terminated the 2021 Agreement without providing Good Cause and instead electing to terminate without cause under Section 17 and the parties are no longer performing thereunder; and (ii) USB's remedy is damages as calculated pursuant to the formula in Section 17 of the 2021 Agreement, together with costs, attorneys' fees, and with such other and further relief as to the Court seems just and reasonable.

Dated: June 18, 2024

HANCOCK ESTABROOK, LLP

By: 
James J. O'Shea, Esq.
Attorneys for Plaintiff
1800 AXA Tower I, 100 Madison Street
Syracuse, New York 13202
(315) 565-4500

VERIFICATION

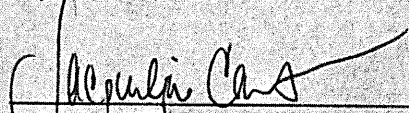
STATE OF NEW YORK)
COUNTY OF ONONDAGA) SS:.

Eddie Brennan, being duly sworn, deposes and says that: deponent is the President/CEO of Beak & Skill Apple Farms, Inc., he has reviewed the foregoing Verified Complaint; knows the contents thereof; and the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief and, as to those matters, deponent believes them to be true.



EDDIE BRENNAN

Subscribed to before me this 18th
day of June, 2024



Notary Public

